IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 704 (MS) OF 2006

Taria Kal Sangam Sri Ram Leela Committee,
Ram Leela Ground, Naya Bazar, Gularbhoj,
P.O. Gularbhoj, Teshil Gadarpur, District- U.S. Nagar.
Through its President Nain Singh, S/o Sri Jeet Singh,
R/o Village Govindpur, P.O. Gularbhoj,
District- Udham Singh Nagar. .....Petitioner.

Versus

1. Civil Judge (Jr. Div.), Udham Singh Nagar.
2. Shambhu Prasad Joshi, S/o Sri Kashiram Joshi, Principal, Jighyasa Uchha Prathmik Vidhyalaya, Village Gularbhoj, Tehsil Gadarpur, District Udham Singh Nagar.
3. Jighyasa Uchha Prathmik Vidhyalaya, through its Manager Village Gularbhoj, Tehsil Gadarpur, District Udham Singh Nagar.
4. Station House Officer, Police Station, Gadarpur, District- Udham Singh Nagar. .....Respondents

Dated: 13.06.2006

Hon'ble Rajesh Tandon, J.

Heard Sri Sudhir Singh, Advocate for the petitioner, Sri T.A. Khan, Advocate for the respondents nos. 2 and 3 and Standing Counsel for the respondents no. 1 and 4.

By the present writ petition, the petitioner has prayed for a writ of mandamus directing the respondent no. 4 to restrain the respondent nos. 2 and 3 from raising the illegal construction over the disputed plot till the disposal of the Suit No. 32/2000 pending before the respondent no. 1 and further

direct the parties to maintain status quo over the property as per order of the lower Court dated 30.01.2001.

Briefly stated, a suit was filed being Suit No. 32 of 2000 by the respondent no. 2 against the petitioner and two others for the grant of permanent injunction of Plot No. 779 area 9000 Sq. ft. situated at Village Gularbhoj, Tehsil Gadarpur, District- U.S. Nagar.

The petitioner has filed a written statement. Along with the written statement, he has also filed a counter claim. Both the parties have also filed applications for interim injunction. The injunction was granted to the following effect:-

“izkFkZuki= 5x Lohdkj fd;k tkrk gSA izfroknhx.k dks vLFkk;h fu”ks/kkKk }kjk fu”ksf/kr fd;k tkrk gS] fd os nLrkost la 85x@1 esa nf’kZr Ldwy esa oknh ds v/;klu esa dksbZ gLr{ksi u djsaA

izkFkZuki= 61 x Lohdkj fd;k tkrk gSa oknh dks vLFkk;h fu”k/kkKk }kjk fu”ksf/kr fd;k tkrk gS fd og nLrkost la0 88x@1 esa nf’kZr izfroknh la0 1 ds jkeyhyk eSnku esa dksbZ gLr{ksi u djsaA D;ksafd oknh rFkk izfroknhx.k dk izkFkZuki= vLFkk;h fu”ks/kkKk gsrq Lohdkj fd;s tk pqds gSa] vr% fookfnr laifRr dh mfpr :Ik ls iSekb’k gksuk vko’;d gSA bl laca/k esa dfe’uj lwph ls ,MoksdsV dfe’uj ds uke deh’ku tkjh gksA dfe’uj nksauksa fookfnr laifRr ds laca/k esa ys[kiky ,oa iVokjh dh lgk;rk ls fookfnr laifRr dh iSekb’k djsa djds bl U;k;ky;

ds le{k fu;r frfFk rd izLrqr djsaA ,MoksdsV dfe’uj gsrq [kpkZ oknh rFkk izfroknhx.k vkil esa cjkcj ogu djsaxsaA i=koyh okLrs fuLrkj.k fnukad 19@02@2001 dks is’k gksA^^

As will appear form the aforesaid order, application of both the parties were allowed and both parties were restrained from interfering each other.

Present writ petition has been filed by the petitioner stating therein that the respondents are raising construction on the Ram Leela Ground, where the petitioner was carrying his Ram Leela.

However, the said fact has been disputed by Sri T.A. Khan that no such construction is being raised on the Ram Leela ground and there is already construction in existence and the same is replaced by removing the roof and other Kachcha construction.

Earlier also the matter has come up before this Court in Writ Petition No. 984 (ms) of 2004, where the following directions have been given on 13.10.2004:-

“Consequently, the Court below is directed to decide the suit within a period of three months. While deciding the suit, the court below shall get the measurement of the area of the school form the settlement map and other relevant record, like title deeds etc. showing the actual measurement where the school is running and further the Court below shall get the land of Ram Leela bifurcated.

In view of the above, the order dated 5.10.2004 passed by Civil Judge (Junior Division), Udham Singh Nagar is set aside. The parties are directed to abide the order dated 30.01.2001 for a period of three months only. The suit is also directed to be decided by that time. However, it is made clear that if any pucca stage etc. has been prepared, the same shall be subject to the final result of the suit. The petitioner undertakes to abide by the result of the suit.

Consequently the writ petition is allowed. The Order dated 5.10.2004 is set aside. The respondents are directed not to interfere in the running of the Ram Leela of the petitioner. No order as to costs. Copy expedite.”

As will appear from the order that the Civil Judge was directed to decide the suit within a period of three months and further respondents were restrained from interfering in the running of the Ram Leela of the petitioner.

Sri T.A. Khan has submitted that no construction is being made on the spot, where Ram Leela is played.

Since the Civil Court is closed, there is already a stay order passed by the Civil Court in favour of both the parties that there should not be any interference in possession of both the parties. Both the parties have submitted that the said stay order, which was granted on 30.01.2001 still subsists and has not yet been vacated.

In view of the above, since both the parties have been restrained not to interfere on the land occupied by each other there is no occasion further to pass any order in favour of any of the parties. However, liberty is given to the petitioner to approach the Civil Judge. Since the order dated 30.01.2001 is still operative and therefore, both the parties are directed to abide by the same till the opening of the Civil Court. However, parties have informed that on 4th July, 2006 is already fixed in the case.

Put up on 4th July, 2006 before the Civil Judge.

In the meantime, both the parties shall abide by the order dated 30.01.2001.

However, if the respondents are raising any construction outside the scope of the order dated 30.01.2001 i.e. on their own land, he shall be permitted to do so. However, no construction shall be made on the disputed land of the petitioner. Suit shall be decided expeditiously within a period of four months.

Consequently, writ petition is disposed of.

Copy of the order to be given within two days.

(Rajesh Tandon, J.)

13.06.2006

Rathour